



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 10-014

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. There are multiple interpretations based on the structure of SECTION 1 of the rule. It appears that the intent behind s. BC 7.01 is to allow the board to choose between accepting examinations both conducted in-house and by a test service provider. The way it is written, it is not clear that this is the intent. The following issues are raised:

- (1) Section BC 7.01 (1) could be read to mean that if the board chooses to engage in one of the three listed activities (prepare, administer, or grade examinations), the board must engage in all three, as the word “and” is used. Is it the intent that the board engage in all three activities if it only wants to engage in one?
- (2) It is unclear what the phrase, “approve, in whole or in part,” means. First, what is the purpose of the board “approving” the examinations? Is the purpose to “approve for licensure” an examination that was taken by a test service provider? Is the purpose to allow the board to administer exams prepared by a test service provider? Second, what does “in whole or in part” mean? Does it mean that the provider can engage in one or two of the three items listed (prepare, administer, or grade exams) if the board does the others? For example, can the provider administer or grade board-prepared exams? If the board only approves “part” of the three items a test service provider could do (i.e. prepare, administer, or grade exams), it is unclear what happens to the other items.

b. The plain language analysis claims that the right to request an appeal was moved from ss. BC 7.07 and 7.08 to s. BC 7.01 (2). However, neither the right to request an appeal nor the authority of the board to review an examination is listed in s. BC 7.01 (2).

c. The plain language analysis states that review of examination questions needed to be repealed as the questions themselves are proprietary intellectual property. It appears that the board already has the authority to review exam questions under s. BC 7.01. It is unclear why the board claims s. BC 7.07 should be repealed on the grounds of proprietary intellectual property. The board should consider providing more detail as to why the exams can be approved by the board, but may not be reviewed by the board.